

(b) Duty of Secretary; immunity from disclosure; necessary consent

(1) In carrying out a provision of law referred to in subsection (d) of this section, no department, agency, officer, or employee of the Federal Government, other than the Secretary of Agriculture, shall require a person to furnish a copy of statistical information provided to the Department of Agriculture.

(2) A copy of such information—

(A) shall be immune from mandatory disclosure of any type, including legal process; and

(B) shall not, without the consent of such person, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceeding.

(c) Violations; penalties

Any person who shall publish, cause to be published, or otherwise publicly release information collected pursuant to a provision of law referred to in subsection (d) of this section, in any manner or for any purpose prohibited in section¹ (a) of this section, shall be fined not more than \$10,000 or imprisoned for not more than 1 year, or both.

(d) Specific provisions for collection of information

For purposes of this section, a provision of law referred to in this subsection means—

(1) the first section of the Act entitled “An Act authorizing the Secretary of Agriculture to collect and publish statistics of the grade and staple length of cotton”, approved March 3, 1927 (7 U.S.C. 471) (commonly referred to as the “Cotton Statistics and Estimates Act”);

(2) the first section of the Act entitled “An Act to provide for the collection and publication of statistics of tobacco by the Department of Agriculture”, approved January 14, 1929 (7 U.S.C. 501);

(3) the first section of the Act entitled “An Act to provide for the collection and publication of statistics of peanuts by the Department of Agriculture”, approved June 24, 1936 (7 U.S.C. 951);

(4) section 203(g) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1622(g));

(5) section 526(a) of the Revised Statutes (7 U.S.C. 2204(a));

(6) the Act entitled “An Act providing for the publication of statistics relating to spirits of turpentine and resin”, approved August 15, 1935 (7 U.S.C. 2248);

(7) section 42 of title 13;

(8) section 4 of the Act entitled “An Act to establish the Department of Commerce and Labor”, approved February 14, 1903 (15 U.S.C. 1516);

(9) section 2 of the joint resolution entitled “Joint resolution relating to the publication of economic and social statistics for Americans of Spanish origin or descent”, approved June 16, 1976 (15 U.S.C. 1516a);

(10) section 3(e) of the Forest and Rangeland Renewable Resources Research Act of 1978 (16 U.S.C. 1642(e));

(11) section 2204g of this title; or

(12) section 302 of the Rural Development Act of 1972 (7 U.S.C. 1010a) regarding the authority to collect data for the National Resources Inventory.

(e) Information provided to Secretary of Commerce

This section shall not prohibit the release of information under section 2204g(f)(2) of this title.

(Pub. L. 99-198, title XVII, §1770, Dec. 23, 1985, 99 Stat. 1657; Pub. L. 105-113, §4(a)(2), (b), Nov. 21, 1997, 111 Stat. 2276; Pub. L. 106-113, div. B, §1000(a)(3) [title III, §348], Nov. 29, 1999, 113 Stat. 1535, 1501A-207; Pub. L. 107-171, title II, §2004(b), May 13, 2002, 116 Stat. 236.)

AMENDMENTS

2002—Subsec. (a)(3). Pub. L. 107-171, §2004(b)(1), added par. (3).

Subsec. (d)(12). Pub. L. 107-171, §2004(b)(2), added par. (12).

1999—Subsec. (d)(10), (11). Pub. L. 106-113 added par. (10) and redesignated former par. (10) as (11).

1997—Subsec. (d)(10). Pub. L. 105-113, §4(a)(2), added par. (10).

Subsec. (e). Pub. L. 105-113, §4(b), added subsec. (e).

§ 2277. Contracts by Animal and Plant Health Inspection Service for services to be performed abroad

Funds available to the Animal and Plant Health Inspection Service (APHIS) under this and subsequent appropriations shall be available for contracting with individuals for services to be performed outside of the United States, as determined by APHIS to be necessary or appropriate for carrying out programs and activities abroad. Such individuals shall not be regarded as officers or employees of the United States under any law administered by the Office of Personnel Management.

(Pub. L. 102-142, title VII, §737, Oct. 28, 1991, 105 Stat. 915.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following prior appropriation act:

Pub. L. 101-506, title VI, §641, Nov. 5, 1990, 104 Stat. 1350.

§ 2278. Consistency with international obligations of United States

(a) In general

Prior to the promulgation of, or amendment to, any order or plan under a research and promotion program relating to research and promotion of any agricultural commodity or product, after November 28, 1990, where such order or plan would provide for an assessment on imports, the Secretary of Agriculture shall consult with the United States Trade Representative regarding the consistency of the provisions of the order or plan with the international obligations of the United States.

(b) Compliance with U.S. international obligations

The Secretary of Agriculture shall take all steps necessary and appropriate to ensure that any order or plan or amendment to such order or

¹ So in original. Probably should be “subsection”.

plan, and the implementation and enforcement of any order or plan or amendment to such order or plan, or program as it relates to imports is nondiscriminatory and in compliance with the international obligations of the United States, as interpreted by the United States Trade Representative.

(c) Construction

Nothing in this section shall be construed as providing for a cause of action under this section.

(Pub. L. 101-624, title XIX, §1999T, Nov. 28, 1990, 104 Stat. 3928.)

§ 2279. Outreach and assistance for socially disadvantaged farmers and ranchers

(a) Outreach and assistance

(1) Program

The Secretary of Agriculture shall carry out an outreach and technical assistance program to encourage and assist socially disadvantaged farmers and ranchers—

(A) in owning and operating farms and ranches; and

(B) in participating equitably in the full range of agricultural programs offered by the Department.

(2) Requirements

The outreach and technical assistance program under paragraph (1) shall—

(A) enhance coordination of the outreach, technical assistance, and education efforts authorized under various agriculture programs; and

(B) include information on, and assistance with—

(i) commodity, conservation, credit, rural, and business development programs;

(ii) application and bidding procedures;

(iii) farm and risk management;

(iv) marketing; and

(v) other activities essential to participation in agricultural and other programs of the Department.

(3) Grants and contracts

(A) In general

The Secretary may make grants to, and enter into contracts and other agreements with, an eligible entity to provide information and technical assistance under this subsection.

(B) Relationship to other law

The authority to carry out this section shall be in addition to any other authority provided in this or any other Act.

(C) Other projects

Notwithstanding paragraph (1), the Secretary may make grants to, and enter into contracts and other agreements with, an organization or institution that received funding under this section before January 1, 1996, to carry out a project that is similar to a project for which the organization or institution received such funding.

(4) Funding

(A) Authorization of appropriations

There is authorized to be appropriated to carry out this subsection \$25,000,000 for each of fiscal years 2002 through 2007.

(B) Interagency funding

In addition to funds authorized to be appropriated under subparagraph (A), any agency of the Department may participate in any grant, contract, or agreement entered into under this subsection by contributing funds, if the agency determined that the objectives of the grant, contract, or agreement will further the authorized programs of the contributing agency.

(b) Designation of Federal personnel

(1) In general

The Secretary shall designate from existing Federal personnel resources in the county or region a qualified person who shall, in cooperation with the State cooperative extension services, implement the policies and programs established or modified in accordance with this section.

(2) Additional personnel

In counties or regions in which the number of socially disadvantaged farmers and ranchers exceeds 25 percent of the total number of farmers and ranchers in the county or region, the Secretary shall designate additional personnel to implement the policies and programs established or modified in accordance with this section.

(c) Report to Congress

(1) In general

Not later than September 30, 1992, and every two years thereafter, the Secretary shall report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, regarding—

(A) the efforts of the Secretary to enhance participation by members of socially disadvantaged groups in agricultural programs;

(B) the specific participation goals established for each agricultural program;

(C) the results achieved for each agricultural program; and

(D) the progress of the Department towards meeting each of the purposes described in paragraph (2)(C).

(2) Contents

In addition to the information specified in paragraph (1), the report required by paragraph (1) shall include—

(A) a comparison of the participation goals and the actual participation rates of members of socially disadvantaged groups in each agricultural program;

(B) an analysis and explanation of the reasons for the success or failure of the Secretary to achieve the goals, and the overall purposes of this section;

(C) a listing, on a State-by-State and county-by-county basis, of—

(i) the amount of funds loaned to members of socially disadvantaged groups; and

(ii) the amount of funds used to guarantee loans to members of socially disadvantaged groups compared to the total amount of such guarantees;

(D) a breakdown in allocation of crop base in each program crop compared to the target participation rates established pursuant to sections 355(a)(1) and 355(c) of the Consolidated Farm and Rural Development Act [7 U.S.C. 2003(a)(1), 2003(c)], on a State-by-State and county-by-county basis; and

(E) a review and analysis of participation by members of socially disadvantaged groups, compared to participation by all others, in agricultural programs, on a State-by-State and county-by-county basis, including a survey representative of all farmers and ranchers, including socially disadvantaged farmers and ranchers, to identify reasons for participation and non-participation in agricultural programs.

(d) Affirmative action, appeals, and contracting review

(1) Purpose

It is the purpose of this subsection to direct the Secretary to analyze within the Department the design and implementation of affirmative action programs and policies, the appeals process for complaints of discrimination, and contracting and purchasing practices employed by the Department.

(2) Scope

The study shall include—

(A) an assessment of the successes and failures of these affirmative action programs and policies;

(B) a review of the reasons for the successes and failures described in subparagraph (A);

(C) a review of procurement, contracting, and purchasing policies of the Department, the level of participation of socially disadvantaged businesses in such activities, and the impact of those policies on the participation of members of socially disadvantaged groups in such contracting with the Department;

(D) a review of the reasons for participation or lack of participation of businesses owned by members of socially disadvantaged groups in the activities described in subparagraph (C); and

(E) a review of the appeals process for all complaints or allegations regarding acts, practices, or patterns of discrimination filed with the Department by individuals or any other entities that shall include—

(i) the number of complaints or allegations regarding acts, practices, or patterns of discrimination;

(ii) the manner in which the complaints were investigated and resolved by the Department; and

(iii) the longest, shortest, and average periods of time taken to investigate and resolve the complaints or allegations regarding acts, practices, or patterns of discrimination.

(3) Report

Not later than November 28, 1991, the Secretary shall prepare and submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report containing the information described in paragraph (2).

(e) Definitions

(1) Socially disadvantaged group

As used in this section, the term “socially disadvantaged group” means a group whose members have been subjected to racial or ethnic prejudice because of their identity as members of a group without regard to their individual qualities.

(2) Socially disadvantaged farmer or rancher

As used in this section, the term “socially disadvantaged farmer or rancher” means a farmer or rancher who is a member of a socially disadvantaged group.

(3) Agriculture programs

As used in this section, the term “agriculture programs” are those established or authorized by—

(A) the Agricultural Act of 1949 [7 U.S.C. 1421 et seq.];

(B) the Consolidated Farm and Rural Development Act [7 U.S.C. 1921 et seq.];

(C) the Agricultural Adjustment Act of 1938 [7 U.S.C. 1281 et seq.];

(D) the Soil Conservation Act;

(E) the Domestic Allotment Assistance Act;

(F) the Food Security Act of 1985; and

(G) other such Acts as the Secretary deems appropriate.

(4) Department

The term “Department” means the Department of Agriculture.

(5) Eligible entity

The term “eligible entity” means any of the following:

(A) Any community-based organization, network, or coalition of community-based organizations that—

(i) has demonstrated experience in providing agricultural education or other agriculturally related services to socially disadvantaged farmers and ranchers;

(ii) has provided to the Secretary documentary evidence of work with socially disadvantaged farmers and ranchers during the 2-year period preceding the submission of an application for assistance under subsection (a) of this section; and

(iii) does not engage in activities prohibited under section 501(c)(3) of title 26.

(B) An 1890 institution or 1994 institution (as defined in section 7601 of this title), including West Virginia State College.

(C) An Indian tribal community college or an Alaska Native cooperative college.

(D) An Hispanic-serving institution (as defined in section 3103 of this title).

(E) Any other institution of higher education (as defined in section 1001 of title 20)

that has demonstrated experience in providing agriculture education or other agriculturally related services to socially disadvantaged farmers and ranchers in a region.

(F) An Indian tribe (as defined in section 450b of title 25) or a national tribal organization that has demonstrated experience in providing agriculture education or other agriculturally related services to socially disadvantaged farmers and ranchers in a region.

(G) An organization or institution that received funding under subsection (a) of this section before January 1, 1996, but only with respect to projects that the Secretary considers are similar to projects previously carried out by the organization or institution under such subsection.

(6) Secretary

The term “Secretary” means the Secretary of Agriculture.

(f) Omitted

(g) Reservations

(1) Consolidated suboffice

The Secretary shall require the Agricultural Stabilization and Conservation Service, Soil Conservation Service, and Farmers Home Administration offices, and such other offices and functions the Secretary may choose to include, in each county that has a reservation within its borders, to establish a consolidated suboffice at the tribal headquarters of said reservation and to staff said suboffice as needed, using existing staff, but no less than one day a week or under such other arrangement agreed to by the tribe and the Department offices. The tribe shall be required to provide the necessary office space if it wishes to participate in this program.

(2) Cooperative agreements

For those reservations that are located in more than one county, the Secretary, the relevant county offices and the tribe shall enter into a cooperative agreement to provide the services required by paragraph (1) that avoids duplication of effort.

(Pub. L. 101-624, title XXV, § 2501, Nov. 28, 1990, 104 Stat. 4062; Pub. L. 102-237, title X, § 1003, Dec. 13, 1991, 105 Stat. 1894; Pub. L. 107-171, title X, § 10707, May 13, 2002, 116 Stat. 520.)

REFERENCES IN TEXT

The Agricultural Act of 1949, referred to in subsec. (e)(3)(A), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, which is classified principally to chapter 35A (§1421 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

The Consolidated Farm and Rural Development Act, referred to in subsec. (e)(3)(B), is title III of Pub. L. 87-128, Aug. 8, 1961, 75 Stat. 307, as amended, which is classified principally to chapter 50 (§1921 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1921 of this title and Tables.

The Agricultural Adjustment Act of 1938, referred to in subsec. (e)(3)(C), is act Feb. 16, 1938, ch. 30, 52 Stat. 31, as amended, which is classified principally to chap-

ter 35 (§1281 et seq.) of this title. For complete classification of this Act to the Code, see section 1281 of this title and Tables.

The Soil Conservation Act and the Domestic Allotment Assistance Act, referred to in subsec. (e)(3)(D) and (E), respectively, probably mean the Soil Conservation and Domestic Allotment Act, act Apr. 27, 1935, ch. 85, 49 Stat. 163, as amended, which is classified generally to chapter 3B (§590a et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see section 590q of Title 16 and Tables.

The Food Security Act of 1985, referred to in subsec. (e)(3)(F), is Pub. L. 99-198, Dec. 23, 1985, 99 Stat. 1354, as amended. For complete classification of this Act to the Code, see Short Title of 1985 Amendment note set out under section 1281 of this title and Tables.

CODIFICATION

Section is comprised of section 2501 of Pub. L. 101-624. Subsec. (f) of section 2501 of Pub. L. 101-624 amended section 2003 of this title.

AMENDMENTS

2002—Subsec. (a). Pub. L. 107-171, § 10707(b), added subsec. (a) and struck out heading and text of former subsec. (a). Text read as follows:

“(1) IN GENERAL.—The Secretary of Agriculture (hereafter referred to in this section as the ‘Secretary’) shall provide outreach and technical assistance to encourage and assist socially disadvantaged farmers and ranchers to own and operate farms and ranches and to participate in agricultural programs. This assistance should include information on application and bidding procedures, farm management, and other essential information to participate in agricultural programs.

“(2) GRANTS AND CONTRACTS.—The Secretary may make grants and enter into contracts and other agreements in the furtherance of this section with the following entities—

“(A) any community based organization that—

“(i) has demonstrated experience in providing agricultural education or other agriculturally related services to socially disadvantaged farmers and ranchers;

“(ii) provides documentary evidence of its past experience of working with socially disadvantaged farmers and ranchers during the two years preceding its application for assistance under this section; and

“(iii) does not engage in activities prohibited under section 501(c)(3) of title 26; and

“(B) 1890 Land-Grant Colleges including Tuskegee Institute, Indian tribal community colleges and Alaska native cooperative colleges, Hispanic serving post-secondary educational institutions, and other post-secondary educational institutions with demonstrated experience in providing agriculture education or other agriculturally related services to socially disadvantaged family farmers and ranchers in their region.

“(3) FUNDING.—There are authorized to be appropriated \$10,000,000 for each fiscal year to carry out this subsection.”

Subsec. (d)(1). Pub. L. 107-171, § 10707(c)(1), struck out “of Agriculture” after “analyze within the Department”.

Subsec. (e)(4) to (6). Pub. L. 107-171, § 10707(a), added pars. (4) to (6).

Subsec. (g)(1). Pub. L. 107-171, § 10707(c)(2), struck out “of Agriculture” after “Department”.

1991—Subsec. (a)(3). Pub. L. 102-237, § 1003(1), substituted “subsection” for “section”.

Subsec. (c)(1)(C). Pub. L. 102-237, § 1003(2), inserted “program” after “agricultural”.

Subsec. (d)(3). Pub. L. 102-237, § 1003(3), substituted “November 28, 1991” for “1 year after the date of enactment of this Act”.

WAIVER OF STATUTE OF LIMITATIONS

Pub. L. 105-277, div. A, § 101(a) [title VII, § 741], Oct. 21, 1998, 112 Stat. 2681, 2681-30, provided that:

“(a) To the extent permitted by the Constitution, any civil action to obtain relief with respect to the discrimination alleged in an eligible complaint, if commenced not later than 2 years after the date of the enactment of this Act [Oct. 21, 1998], shall not be barred by any statute of limitations.

“(b) The complainant may, in lieu of filing a civil action, seek a determination on the merits of the eligible complaint by the Department of Agriculture if such complaint was filed not later than 2 years after the date of enactment of this Act [Oct. 21, 1998]. The Department of Agriculture shall—

“(1) provide the complainant an opportunity for a hearing on the record before making that determination;

“(2) award the complainant such relief as would be afforded under the applicable statute from which the eligible complaint arose notwithstanding any statute of limitations; and

“(3) to the maximum extent practicable within 180 days after the date a determination of an eligible complaint is sought under this subsection conduct an investigation, issue a written determination and propose a resolution in accordance with this subsection.

“(c) Notwithstanding subsections (a) and (b), if an eligible claim is denied administratively, the claimant shall have at least 180 days to commence a cause of action in a Federal court of competent jurisdiction seeking a review of such denial.

“(d) The United States Court of Federal Claims and the United States District Court shall have exclusive original jurisdiction over—

“(1) any cause of action arising out of a complaint with respect to which this section waives the statute of limitations; and

“(2) any civil action for judicial review of a determination in an administrative proceeding in the Department of Agriculture under this section.

“(e) As used in this section, the term ‘eligible complaint’ means a nonemployment related complaint that was filed with the Department of Agriculture before July 1, 1997 and alleges discrimination at any time during the period beginning on January 1, 1981 and ending December 31, 1996—

“(1) in violation of the Equal Credit Opportunity Act (15 U.S.C. 1691 et seq.) in administering—

“(A) a farm ownership, farm operating, or emergency loan funded from the Agricultural Credit Insurance Program Account; or

“(B) a housing program established under title V of the Housing Act of 1949 [42 U.S.C. 1471 et seq.]; or

“(2) in the administration of a commodity program or a disaster assistance program.

“(f) This section shall apply in fiscal year 1999 and thereafter.

“(g) The standard of review for judicial review of an agency action with respect to an eligible complaint is de novo review. Chapter 5 of title 5 of the United States Code shall apply with respect to an agency action under this section with respect to an eligible complaint, without regard to section 554(a)(1) of that title.”

§ 2279-1. Transparency and accountability for socially disadvantaged farmers and ranchers

(a) Purpose

The purpose of this section is to ensure compilation and public disclosure of data to assess and hold the Department of Agriculture accountable for the nondiscriminatory participation of socially disadvantaged farmers and ranchers in programs of the Department.

(b) Definition of socially disadvantaged farmer or rancher

In this section, the term “socially disadvantaged farmer or rancher” has the meaning given the term in section 2003(e) of this title.

(c) Compilation of program participation data

(1) Annual requirement

For each county and State in the United States, the Secretary shall compute annually the participation rate of socially disadvantaged farmers and ranchers as a percentage of the total participation of all farmers and ranchers for each program of the Department of Agriculture established for farmers or ranchers.

(2) Reporting participation

In reporting the rates of participation under paragraph (1), the Secretary shall report the participation rate of socially disadvantaged farmers and ranchers according to race, ethnicity, and gender.

(Pub. L. 101-624, title XXV, § 2501A, as added Pub. L. 107-171, title X, § 10708(a), May 13, 2002, 116 Stat. 522.)

§ 2279a. Fair and equitable treatment of socially disadvantaged producers

(a) Fair crop acreage bases and farm program payment yields

If the Secretary of Agriculture determines that crop acreage bases or farm program payment yields established for farms owned or operated by socially disadvantaged producers are not established in accordance with title V of the Agricultural Act of 1949 (7 U.S.C. 1461 et seq.), the Secretary shall adjust the bases and yields to conform to the requirements of such title and make available any appropriate commodity program benefits.

(b) Fair application of Consolidated Farm and Rural Development Act

If the Secretary of Agriculture determines that application of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) with respect to socially disadvantaged producers is not consistent with the requirements of such Act, the Secretary shall make such changes in the administration of such Act as the Secretary considers necessary to provide for the fair and equitable treatment of socially disadvantaged producers under such Act.

(c) Report on treatment of socially disadvantaged producers

(1) Report required

The Comptroller General of the United States shall prepare a report to determine—

(A) whether socially disadvantaged producers are underrepresented on State, county, area, or local committees established under section 590h(b)(5) of title 16 or local review committees established under section 1363 of this title because of racial, ethnic, or gender prejudice; and

(B) if such underrepresentation exists, whether it inhibits or interferes with the participation of socially disadvantaged producers in programs of the Department of Agriculture.

(2) Submission of report

Not later than February 1, 1995, the Comptroller General shall submit the report re-